

\* The original of this document contains information which is subject to withholding from disclosure under 5 U.S.C. 552. Such material has been deleted from this copy and replaced with XXXXXX's.

September 21, 2005

DECISION AND ORDER  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer Decision

Name of Case: Personnel Security Hearing

Date of Filing: April 6, 2005

Case Number: TSO-0225

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the Department of Energy's (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, "General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." <sup>1</sup> A local DOE Security Office suspended the individual's access authorization pursuant to the provisions of Part 710. In this Decision I will consider whether, on the basis of the testimony and other evidence in the record of this proceeding, the individual's access authorization should be restored. As discussed below, after carefully considering the record before me in light of the relevant regulations, I have determined that the individual's access authorization should be restored.

**I. Background**

The individual has been employed sporadically since high school by a DOE contractor in positions that have required him to maintain a security clearance. In April 2003, the individual executed a security form in which he revealed that he had used marijuana between August 2000 and May 2002. This revelation prompted the DOE to conduct a personnel security interview (PSI) with the individual in August 2004 to examine the extent of the individual's use of illegal drugs. Unable to resolve the derogatory information surrounding the individual's illegal drug use, the DOE suspended the individual's access authorization and initiated formal administrative review proceedings. In a Notification Letter that it sent to the individual, the DOE explained that the individual's use of illegal drugs while holding a DOE security clearance raised concerns under the security regulations codified at 10 C.F.R. § 710.8, subsections (k) and (l). (hereinafter referred to as Criteria K and L respectively).<sup>2</sup>

---

<sup>1</sup> Access authorization is defined as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

<sup>2</sup> Criterion K concerns information that a person has "[t]rafficked in, sold, transferred, possessed, used, or experimented with a drug or other substance listed in the Schedule of Controlled Substances established pursuant to section 202 of the Controlled Substances Act of 1970 (such as marijuana, cocaine, amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to

Upon his receipt of the Notification Letter, the individual filed a written response to the Notification Letter and exercised his right under the Part 710 regulations by requesting an administrative review hearing. On April 11, 2005, the Director of the Office of Hearings and Appeals (OHA) appointed Kent S. Woods as the Hearing Officer in this case. Because of an unforeseen conflict, Mr. Woods could not conduct the hearing in this case. On July 6, 2005, the OHA Director reassigned the case to me and designated me as the Hearing Officer. Soon after my appointment, I conducted the administrative review hearing in the case.

At the hearing, nine witnesses testified. The DOE did not call any witnesses. The individual presented his own testimony and that of eight witnesses. The DOE submitted nine exhibits into the record; the individual tendered two exhibits. On August 31, 2005, I received the hearing transcript (Tr.) at which time I closed the record in the case.

## **II. Regulatory Standard**

### **A. Individual's Burden**

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the individual because it is designed to protect national security interests. This is not an easy burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9<sup>th</sup> Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

### **B. Basis for the Hearing Officer's Decision**

In personnel security cases arising under Part 710, it is my role as the Hearing Officer to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the

---

dispense drugs in the practice of medicine, or as otherwise authorized by Federal law." 10 C.F.R. § 710.8(k). Criterion L relates in relevant part to information that a person has "[e]ngaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; . . ." 10 C.F.R. § 710.8(l).

granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to an individual's access authorization eligibility in favor of the national security. *Id.*

### III. Findings of Fact

The individual had just turned XX in June 1998 when he completed security forms to obtain a DOE security clearance. Exhibit (Ex.) 7. Eight months later, in January 1999, the individual began working for a DOE contractor on a part time basis as a "co-op" high school student. Ex. 8. During the summer of 1999, the individual converted to full-time work status. *Id.* At the end of the summer, the individual returned his badge to the DOE contractor. In the fall of 1999, the individual entered college (College #1). While the individual was attending College #1, the DOE contractor listed him as a "casual employee" on its employment records. Ex. 8. The individual testified that he returned as a summer intern in the summer of 2000. Transcript of Hearing (Tr.) at 93-94.<sup>3</sup> According to the individual, he received a badge at the beginning of his employment and returned it to the DOE contractor at the end of the summer. *Id.*

In the fall of 2000, the individual transferred to another college (College #2). According to the record, the DOE contractor terminated the individual from its "casual status" rolls in December 2000 when he failed to maintain a 2.0 Grade Point Average in college. Tr. at 95. When the individual's employment was terminated, the DOE terminated the individual's access authorization. Ex. 5 at 9.

In May 2001, the individual completed security forms in anticipation of being rehired by the same DOE contractor that had previously employed him. Ex. 7. The DOE contractor rehired the individual on June 5, 2001 and at some point the DOE reinstated the individual's security clearance. Ex. 8. The individual worked for the DOE contractor during the summers of 2001, 2002 and 2003. *Id.* The individual never retained physical possession of his badge after he left his summer internship positions with the DOE contractor. The individual had no assurance that he would be extended a summer internship during any summer. Tr. at 126. Neither the DOE nor the DOE contractor ever told the individual that his clearance remained in effect after he turned his badge in at the end of the summer. *Id.* at 125. During the 2001, 2002 and 2003 academic years, the individual continued to attend College #2. In the summer of 2003, the individual's employer asked the DOE to upgrade the individual's security clearance. Ex. 9. In anticipation of his employer's request to the DOE, the individual completed some security forms, including a Questionnaire for National Security Positions (QNSP). Ex. 6. Question 24 on the QNSP asks whether the applicant has used illegal drugs in the last seven years. *Id.* The individual responded affirmatively to that question and noted in the appropriate section of the form that he had used marijuana "less than 20" times between

---

<sup>3</sup> According to the employment records of the DOE contractor, the individual was not listed as any kind of employee during the summer of 2000 or during anytime in 2000. Ex. 8. The contractor's records, however, show that the DOE contractor terminated the individual in December 2000, a fact that seems to suggest that the DOE contractor employed the individual sometime in 2000. *Id.* The seeming discrepancy in the DOE contractor's records causes me to question the reliability of the information contained in Exhibit 8.

August 2000 and May 2002.<sup>4</sup> *Id.* The individual graduated from College #2 in 2004 and became a full-time employee of the DOE contractor that he had worked for sporadically for the previous five years.

#### **IV. Analysis**

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c).<sup>5</sup> After due deliberation, I have determined that the individual's access authorization should be restored. I find that such restoration would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

##### **A. Criterion K**

The Criterion K security concerns at issue here are predicated on statements made by the individual during a PSI conducted by the DOE in 2004. Specifically, the individual told the Personnel Security Specialist that between 1999 and 2000, he used marijuana three or four times while attending College #1. In addition, the individual related that between 2002 and 2003 he used marijuana four to ten times per month while attending College #2. The individual allegedly acknowledged that he was employed by a DOE contractor during these times. Finally, the individual told the Personnel Security Specialist that he spent between \$25.00 and \$30.00 each time that he purchased marijuana between 2001 and 2003.

The individual claims that some of the factual allegations contained in the Notification Letter are incorrect. Specifically, he contends that he did not consider himself employed by the DOE contractor when he used marijuana because he was not drawing a paycheck from the DOE employer. *See* Response to Notification Letter. Further, he contends that he did not spend \$25.00 or \$30.00 to purchase marijuana on each occasion that he used the illegal drug. *Id.* Rather, he claims that he contributed a few dollars towards the purchase of the marijuana each time that he used the drug. *Id.* In the aggregate, testified the individual, he may have spent \$25.00 or \$30.00 on marijuana during the period 2001 to 2003. Tr. at 124. The individual also claims that he did not smoke marijuana four to ten times each month during his college career. *See* Response to the Notification Letter. He contends that there were months during this time period when he did not smoke marijuana at all. *Id.*

---

<sup>4</sup> During the PSI the individual voluntarily corrected the record regarding his last usage of marijuana when he related that he last smoked marijuana in the spring of 2003, not May 2002. *See* Tr. at 33.

<sup>5</sup> Those factors include the following: the nature, extent, and seriousness of the conduct, the circumstances surrounding his conduct, to include knowledgeable participation, the frequency and recency of his conduct, the age and maturity at the time of the conduct, the voluntariness of his participation, the absence or presence of rehabilitation or reformation and other pertinent behavioral changes, the motivation for his conduct, the potential for pressure, coercion, exploitation, or duress, the likelihood of continuation or recurrence, and other relevant and material factors.

At the hearing, one of the individual's friends (Friend #4 *infra*) testified that he knew the individual at College #2. Tr. at 77. He testified that he observed the individual smoke marijuana one or two times and that he also smoked marijuana in college. *Id.* The friend related that sometimes the students would chip in money to get the marijuana while other times someone brought the marijuana to a party and shared it. *Id.* at 81.

With regard to the individual's employment or lack thereof during the operative period, I observe that the contractors own records (Exhibit 8) do not reflect that the individual was employed even on a "casual status" in the fall of 2000, or the fall of 2001, two of the time periods during which the individual admits using marijuana. Moreover, the individual convinced me through his testimony and earnest demeanor that he did not consider himself to have been employed by the DOE contractor at any time when he was away at college. Hence, I find that the allegation in the Notification Letter that the individual used marijuana while employed by a DOE contractor is factually inaccurate.

In addition, the individual and his friend also provided compelling testimony that convinced me that the individual only contributed a few dollars each time he used marijuana, not the \$25.00 or \$30.00 on each occasion. At the hearing, I questioned the individual extensively about his illegal drug use while he was in college. Going semester by semester, I elicited credible information from the individual that convinced me his marijuana usage between August 2000 and the spring of 2003 ranged somewhere between 20 and 30 times on social occasions. Tr. at 106. As for why this information is at variance with the information that the individual provided during the PSI, I determined that, before responding to the questions posed to him, the individual did not carefully reflect at the PSI on a semester-by-semester basis about what he was doing.

Despite these apparent factual inaccuracies in the Notification Letter,<sup>6</sup> it is undisputed that the individual knowingly violated the law when he used marijuana between August 2000 and the spring of 2003. The focus of my analysis, therefore, is on whether the individual has presented sufficient evidence to mitigate the security concerns associated with his multiple use of marijuana over a two-year period.

### **The Individual's Testimony**

The individual testified that he first experimented with marijuana in the spring of 2000 when he attended College #1. Tr. at 106. He related that he smoked the illegal substance two times during this period. *Id.* When he transferred to College #2, the individual claimed that he used marijuana "less than six times" in the fall of 2000. *Id.* The individual also admitted at the hearing that he used marijuana in the spring and fall of 2001, the spring and fall of 2002 and the spring of 2003. *Id.*

---

<sup>6</sup> Based on the individual's statements during the PSI, it was reasonable for the DOE to conclude that the allegations it set forth in the Notification Letter with regard to the individual's illegal drug use were accurate. After carefully reviewing the transcript of the Personnel Security Interview in 2004 and considering the individual's testimony and demeanor at the hearing, it is my opinion that the individual may not have listened attentively to the questions being posed by the Personnel Security Specialist before he responded to them. The individual explained at the hearing that he thought that the DOE had called him to the PSI to verify information and give him his security clearance. He stated that he was "unprepared to recall dates about his drug use" and "was totally unprepared" for the questions being "fired off" at him about his past marijuana use. Tr. at 103-104.

According to the individual, he has not used any illegal drug since the spring of 2003. *Id.* at 110. He ascribed his drug usage in college to immaturity. *Id.* at 123. He testified that at the time he used drugs in college, he “didn’t give it [the illegality of the activity] a thought.” *Id.* at 123. The individual testified that he has learned a valuable lesson from this whole experience and takes responsibility for his past actions. *Id.* at 141, 143. He testified that he not only disclosed his past drug use voluntarily to the DOE but he has told his parents, his friends and bosses about the matter as well. The individual also testified that when the DOE suspended his security clearance, he went to his employer’s Employee Assistance Program (EAP) and asked a counselor if he should enter a rehabilitation program to address the issue of his past drug use. *Id.* at 116. According to the individual, the EAP counselor advised him that there was no reason for him to enter a rehabilitation program.

### **The Father’s Testimony**

The individual’s father testified that his son moved back into his house in August 2004. *Id.* at 15. The father related that he has never seen his son smoke marijuana, has not seen any drugs or drug paraphernalia in his house and has never smelled any residue of marijuana smoke in his house. *Id.* at 17, 20. The father commented that his son now leads a “healthy lifestyle” and is quite involved with weight lifting. *Id.* at 21. The father testified that he does not condone the use of illegal drugs and did not know when his son was in college that his son was using marijuana. *Id.* at 21-23. He concluded by stating that his son made a mistake and was unaware at the time of the impact that mistake could have on his life. *Id.* at 25.

### **The Mother’s Testimony**

The individual’s mother testified that her son moved back home in anticipation of his working on a Master’s degree. *Id.* at 83. She related that she freely goes in and out of her son’s room and knows that there are no drugs or drug paraphernalia in her son’s room. *Id.* at 85. She asserted that her son is very responsible. *Id.* at 87. She believes her son’s statement that he will never use drugs again. *Id.* at 89.

### **The Supervisor’s Testimony**

The individual’s current supervisor testified that the individual is an excellent worker. <sup>7</sup> *Id.* at 45. The supervisor related that he was in the military for 13 years and served as the alcohol and drug coordinator for two and one-half years of his military tenure. *Id.* at 47-49. As the alcohol and drug coordinator, the supervisor assessed soldiers for possible drug and alcohol abuse. He also taught a 30-day course while in the military on basic morality, character building, and leadership traits. *Id.* at 51. According to the supervisor, he has observed the individual in a number of settings, both personal and professional, and never suspected that the individual used illegal drugs. *Id.* at 48. He opined that the individual comes from a family of good morals, ethics and strong character. *Id.* at 51. He added that he spoke to the individual about the individual’s past use of illegal drugs after

---

<sup>7</sup> The same person supervised the individual when he was a high school co-op student for the same DOE contractor.

the individual told him of the suspension of the individual's security clearance. *Id.* at 53. Based on his conversations with the individual, the supervisor believes that the individual learned "a lot about his mistake and will not repeat it." *Id.* at 50.

### **Friend # 1's Testimony**

Friend #1 testified that he has known the individual for three years. *Id.* at 64. He related that he has frequent contact with the individual and sees him at a weekly game night at a local church. *Id.* at 64. He opined that it was "out of character" for the individual to use drugs. *Id.* at 69.

### **Friend #2's Testimony**

Friend #2 has known the individual since high school. *Id.* at 58. He lived in the same college dorm as the individual and the two went rafting together. *Id.* at 59. Friend #2 testified that he has never seen the individual smoke marijuana. *Id.* at 60. He related that he attends a "game night" every Thursday at a local church with the individual. *Id.*

### **Friend # 3's Testimony**

Friend #3 has known the individual since 7<sup>th</sup> grade. *Id.* at 72. He testified that he sees the individual every weekend to play computer games, play pool, or go to barbecues. *Id.* He related that he has never seen the individual smoke marijuana. *Id.* at 75.

### **Friend #4's Testimony**

Friend #4 met the individual at College #2. *Id.* at 77. He observed the individual smoke marijuana on one or two occasions in college but has never seen him use illegal drugs since college. *Id.* He admitted that he also smoked marijuana while in college. *Id.* at 78. He testified that he and the individual smoked marijuana just because it was so prevalent in college. *Id.* at 79. He added that based on his observations of the individual during the times the individual smoked marijuana, the drug made the individual lazy. *Id.* The individual told Friend #4 that he does not intend to smoke marijuana anymore. *Id.* at 81. Friend #4 stated that he and the individual were playing pool one Friday afternoon when other pool players offered to give them some marijuana. *Id.* at 77. According to Friend #4, both he and the individual declined the offer. *Id.*

### **Hearing Officer Evaluation of Evidence**

In evaluating the totality of the circumstances surrounding the individual's illegal drug use, I determined that the following factors did not augur in the individual's favor. First, the individual's willful disregard for the law by using illegal drugs is a serious matter. Second, the individual engaged in this illegal conduct on at least 20 and perhaps as many as 30 occasions (Tr. at 115) during a portion of his college career. Third, the individual's conduct was both voluntary and knowing.

Against these negative factors, I weighed the following positive ones. First, the individual voluntarily reported his use of illegal drugs to the DOE in 2003 when he executed his QNSP. Second, through his testimony, the individual convinced me that he understands

the seriousness of his past misdeeds and is taking full responsibility for his actions. The individual's current behavior demonstrates that he is now comporting himself in an honest, reliable, responsible and trustworthy manner. Third, the individual has told his parents, friend, and bosses about his illegal transgressions, a fact that appears to lessen his susceptibility to blackmail, coercion and undue duress. Fourth, the evidence convinced me that the individual's youth and immaturity at the time he smoked the marijuana may have contributed to his poor decision to use illegal drugs. Fifth, the individual has not used illegal drugs for almost two and one-half years. The individual's parents, friends, and supervisor provided persuasive testimony to corroborate the individual's testimony on this point. Sixth, the individual does not associate with persons who use drugs and provided convincing, corroborated testimony that he has recently declined an offer from strangers to smoke marijuana. Seventh, the individual has provided credible assurances that he will not use drugs in the future. His assurances convinced me that his illegal conduct is unlikely to recur.

On balance, the weight of the evidence demonstrates that the individual has transformed from an irresponsible, aimless college student to a responsible, focused adult. The individual chose to stop using marijuana on his own. He assumed full responsibility for his past actions by voluntarily informing the DOE, his parents, his friends and his supervisors about his past illegal drug use. The individual consulted with the EAP on his own to determine whether he needed any counseling or treatment to address his usage of drugs. The individual demonstrated his immunity from peer pressure when he declined an offer to use marijuana one day while playing pocket billiards. I was extremely impressed by the testimony of the individual's current supervisor who convinced me that his prior military responsibilities and teaching experience make him uniquely suited to mentor young employees, like the individual, about the dangers of illegal drug use and excessive alcohol consumption. In the end, the individual and other witnesses have provided compelling testimonial evidence that lead me to conclude that the individual's past use of illegal drugs is unlikely to recur. Accordingly, after carefully weighing all the evidence, both favorable and unfavorable, I find that the individual has provided sufficient, compelling evidence to mitigate the Criterion K concerns at issue. *See Personnel Security Hearing* (Case No. TSO-0042) <http://www.oha.doe.gov/cases/security/tso0042.pdf>.

## **Criterion L**

To support its Criterion L allegations, the DOE alleges in the Notification Letter that (1) the individual stated during a 2004 PSI that "he did probably know it was against DOE policy to use illegal drugs while holding a DOE clearance," and (2) the individual acknowledged that the DOE Security Acknowledgment Statements and DOE Clearance Criteria Statements that he signed in 1998 and 2001 refer to prohibitions on illegal drug use.

The individual contests both allegations. In response to the Criterion L charges, the individual first contends that he did not believe that he held a DOE clearance during the times that he smoked marijuana. He explained that during his summer internships, he would pick up his badge at the beginning of the summer and return it to the badge office at the end of each summer. He testified convincingly that no one at the DOE or the DOE contractor ever told him that his clearance "was active" after he relinquished physical possession of the badge. Furthermore, he did not consider himself a DOE contractor



employee when he was at college. He explained that he did not receive a pay check from the DOE contractor during the academic year and he was never assured of returning to a summer job with the DOE contractor from one summer to another.

With regard to the security documents that the individual executed in 1998 and 2001, the individual testified that he neither remembers reading the documents nor signing them. When pressed by the DOE Counsel about whether his signature appeared on the forms, the individual replied, “Yeah. But like I said, it was part of that QNSP packet, and I honestly did not read through everything that I signed at the time.” Tr. at 140.

### **The Individual’s Use of Illegal Drugs While Holding a Security Clearance**

From a common sense standpoint, it was not unreasonable for the individual to conclude that he did not hold a security clearance after he completed his summer internships with the DOE contractor. It appears from the evidence that the badge office did not inform the individual that his security clearances would remain in effect after he left his summer employment. This fact, coupled with the fact that the individual relinquished possession of the badge at the end of the summer and never had any guarantee that he would be employed by the DOE contractor the following summer, persuade me that the individual did not smoke marijuana while knowingly holding a DOE security clearance. *See Personnel Security Hearing*, 27 DOE ¶ 82,837 (2000) (affirmed by OSA 2000) (A teenager who worked as a summer employee of a DOE contractor found not to have knowingly violated a Drug Certification because (1) she thought her relinquishment of her security badge at the end of the summer terminated her security clearance, and (2) she received no instruction to dispel this belief.) In addition, the individual testified candidly that he did not believe that he remained on the pay records of the DOE contractor because he never received a paycheck from them during the academic year and never knew from summer to summer whether funding would prevent the DOE contractor from hiring him again.

### **The Individual’s Use of Illegal Drugs after Signing DOE Forms**

As for the DOE Security Acknowledgment and the DOE Clearance Criteria Statements that the individual signed, I make the following findings. When the individual signed the subject forms the first time, he was less than 18 years old. In view of the individual’s age and immaturity in 1998, I am convinced that the individual failed to understand the obligations being imposed upon him as a clearance holder. For this reason, I find that the individual did not knowingly violate the terms of the DOE Security Acknowledgment or DOE Clearance Criteria Statements that he executed in 1998. However, in 2001 the individual executed the same forms again. At this time, the individual was older than 18 and therefore considered a “legal adult.” While I believed the individual’s testimony that he did not read the documents before signing them in 2001, I will impute the content of those documents to him in view of his age and relative maturity at the time he signed the subject documents.

### **The Individual’s Honesty, Reliability and Trustworthiness**

By invoking Criterion L in this case, the DOE has called into question the individual’s honesty, reliability and trustworthiness. This security concern stems from the

individual's use of illegal drugs after he had signed documents advising that security clearance holders must refrain from engaging in specifically enumerated conduct, including the use of illegal drugs.

The record shows that the individual disclosed his past drug use to the DOE on his 2003 QNSP. The individual's candidness in this regard is a positive factor in his favor and demonstrates that he is taking full responsibility for his past misdeeds. *See Personnel Security Hearing* (Case No. TSO-0103) <http://www.oha.doe.gov/cases/security/tso0103.pdf> (affirmed by OSA 2004). Moreover, the testimony of the individual and other witnesses attest to the fact that the individual has matured a great deal since the events occurred that gave rise to the Criterion L allegations at issue here. *See Personnel Security Hearing* (Case No. TSO-0042) <http://www.oha.doe.gov/cases/security/tso0042.pdf> (Mitigation of Criterion L found in a case where a college student used illegal drugs after executing a Security Acknowledgment). As explained fully above in Section IV.A., the individual convinced me that he has transformed from an immature, idle youth to a mature, responsible adult over the last two and one-half years. As a practical matter, I find that the individual now understands that a security clearance holder must exercise meticulous care to read every word on DOE security forms before signing those forms. He has learned the hard way that DOE security forms are not a mere bureaucratic inconvenience, but a serious matter that deserves his careful attention. *See Personnel Security Hearing*, 27 DOE ¶ 82,837 (2000) (affirmed by OSA 2000). In addition, the individual convinced me through his testimony (e.g. Tr. at 120) that he (1) will read every word of a document before signing it in the future, (2) will adhere to all of the DOE security rules and regulations in the future, and (3) will not repeat the errors in judgment that he made when he was a youth. Overall, after carefully evaluating all the evidence, both favorable and unfavorable, it is my common sense judgment that it is highly unlikely that there will be any recurrence of the conduct that gave rise to the Criterion L concern. I find, therefore, that the individual has mitigated the Criterion L security concerns before me.

## V. Conclusion

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criteria K and L. After considering all the relevant information, favorable and unfavorable, in a comprehensive common-sense manner, I have found that the individual has brought forth sufficient evidence to mitigate the security concerns advanced by the DOE. I therefore find that restoring the individual's access authorization would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, I have determined that the individual's access authorization should be restored. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R § 710.28.

Ann S. Augustyn  
Hearing Officer  
Office of Hearings and Appeals

Date: September 21, 2005